

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION****PART I: GENERAL INFORMATION**

Requestor's Name and Address:	MFDR Tracking #:	M4-08-2638-01
PRESBYTERIAN HOSPITAL OF WINNSBORO 3255 W PIONEER PKWY ARLINGTON TX 76013-4620		
Respondent Name and Box #:		
Texas Mutual Insurance Co. Box #: 54		

**PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION**

**Requestor's Position Summary:** "As a common practice, we review the charges for at least a 75% line item reimbursement. We came to this conclusion as this is a standard practice with most carriers."... "The Claim was not paid at all not even 'fair and reasonable' like all other Texas counties in regarding Workers' Compensation."... "We respectfully ask that you reprocess this line item charge at 75%."

**Principle Documentation:**

1. DWC 60 Package
2. Total Amount Sought - \$214.56
3. Hospital Bill
4. EOBs
5. Medical Records

**PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION**

**Respondent's Position Summary:** "This reimbursement amount for code 73030 is based on the 2007 DWC fee schedule reimbursement rate."... "In this dispute, the requestor has not provided any additional information to justify additional payment or that the billed charges are usual and customary."... "No other information was submitted to persuade Texas Mutual (or the Division) that additional payment should be made for the services rendered."... "It appears the requestor is requesting to receive reimbursement based on a percentage of charges or paid in full. It is this carrier's position that reimbursement based on a percentage or paid in full is not compliant with DWC Rule 134.401(c)(1)... Therefore, no additional reimbursement is due."... "The requestor has failed to provide any information to support the amount paid by Texas Mutual is NOT fair or reasonable."... "Texas Mutual believes the amount paid is compliant with DWC Rule 134.401(c)(1)... Therefore, no additional reimbursement is due."

**Principle Documentation:**

1. Response Package

**PART IV: SUMMARY OF FINDINGS**

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
4/23/2007	CAC-W10, 426, CAC-W4, 891	73030	\$214.56	\$0.00
Total Due:				\$0.00

**PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION**

Texas Labor Code § 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division Rule at 28 Texas Administrative Code §134.1, titled *Medical Reimbursement*, effective May 2, 2006 set out the reimbursement guidelines.

1. For the services involved in this dispute, the respondent reduced or denied payment with reason code:
  - CAC-W10 – “No maximum allowable defined by fee guideline. Reimbursement made based on insurance carrier fair and reasonable reimbursement methodology.”
  - CAC-W4 – “No additional reimbursement allowed after review of appeal/reconsideration.”
  - 426 – “Reimbursed to fair and reasonable.”
  - 891 – “The insurance company is reducing or denying payment after reconsideration.”
2. This dispute relates to radiological services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.401(a)(3), effective August 1, 1997, 22 TexReg 6264, which states that “Services such as outpatient physical therapy, radiological studies and laboratory studies are not covered by this guideline and shall be reimbursed at a fair and reasonable rate until the issuance of a fee guideline addressing these specific services”...
3. Division rule at 28 TAC §134.1, effective May 2, 2006, 31 TexReg 3561, requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers’ compensation health care network shall be made in accordance with subsection §134.1(d) which states that “Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available.”
4. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
5. Division rule at 28 TAC §133.307(c)(2)(A), effective December 31, 2006, and applicable to disputes filed on or after January 15, 2007, 31 TexReg 10314, requires that the request shall include “a copy of all medical bill(s)”... “as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration in accordance with §133.250 of this chapter”... This request for medical fee dispute resolution was received by the Division on December 10, 2007. Review of the documentation submitted by the requestor finds that the requestor has not provided a copy of all medical bill(s) as originally submitted to the carrier. The requestor has therefore failed to complete the required sections of the request in the form and manner prescribed by the Division sufficient to meet the requirements of 28 TAC §133.307(c)(2)(A).
6. Division rule at 28 TAC §133.307(c)(2)(C), effective December 31, 2006, and applicable to disputes filed on or after January 15, 2007, 31 TexReg 10314, requires that the request shall include “the form DWC-60 table listing the specific disputed health care and charges in the form and manner prescribed by the Division”... Review of the *Table of Disputed Services* finds that the requestor has not indicated the county where services were rendered. The requestor has therefore failed to complete the required sections of the request in the form and manner prescribed by the Division sufficient to meet the requirements of 28 TAC §133.307(c)(2)(C).
7. Division rule at 28 TAC §133.307(c)(2)(F)(iii), effective December 31, 2006, 31 TexReg 10314, and applicable to disputes filed on or after January 15, 2007 requires that the request shall include “a position statement of the disputed issue(s) that shall include”... “how the Labor Code, Division rules, and fee guidelines impact the disputed fee issues”... Review of the requestor’s position statement finds that the requestor has not discussed how the Labor Code, Division rules and fee guidelines impact the disputed fee issues. The Division concludes that the requestor has not completed the required sections of the request in the form and manner prescribed by the Division as required by Division rule at 28 TAC §133.307(c)(2)(F)(iii).
8. Division rule at 28 TAC §133.307(c)(2)(F)(iv), effective December 31, 2006, 31 TexReg 10314, and applicable to disputes filed on or after January 15, 2007 requires that the request shall include “a position statement of the disputed issue(s) that shall include”... “how the submitted documentation supports the requestor position for each disputed fee issue”... Review of the requestor’s documentation finds that the requestor has not discussed how the submitted documentation supports the requestor position for each disputed fee issue. The Division concludes that the requestor has not completed the required sections of the request in the form and manner prescribed by the Division as required by Division rule at 28 TAC §133.307(c)(2)(F)(iv).
9. Division Rule at 28 TAC §133.307(c)(2)(G), effective December 31, 2006, and applicable to disputes filed on or after January 15, 2007, 31 TexReg 10314, requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable”... The requestor’s position statement asserts that “As a common practice, we review the charges for at least a 75% line item reimbursement. We came to this conclusion as this is a standard practice with most carriers.”... “The Claim was not paid at all not even ‘fair and reasonable’ like all other Texas counties in regarding Workers’ Compensation.”... “We respectfully ask that you reprocess this line item charge at 75%.” Review of the submitted documentation finds that the requestor did not provide evidence to support that a methodology based on payment of the line item charge at 75% would yield a fair and reasonable

reimbursement. The requestor did not submit evidence to support the assertion that 75% line item reimbursement is a standard practice with most carriers. The requestor does not explain how payment of the requested amount would ensure the quality of medical care, achieve effective medical cost control, ensure that similar procedures provided in similar circumstances receive similar reimbursement, or otherwise satisfy the statutory requirements and Division rules. Nor did the requestor submit convincing evidence, such as redacted EOBs showing typical carrier payments, nationally recognized published studies, or Division medical dispute decisions to support that payment of the amount sought would be a fair and reasonable reimbursement. The submitted documentation is not sufficient to meet the requirements of Division rule at 28 TAC §133.307(c)(2)(G).

10. Additionally, the Division has determined that a reimbursement methodology based upon payment of a percentage of the hospital's billed charges, does not produce an acceptable payment amount. This methodology was considered and rejected by the Division in the *Acute Care Inpatient Hospital Fee Guideline* adoption preamble which states at 22 *Texas Register* 6276 (July 4, 1997) that "A discount from billed charges was another method of reimbursement which was considered. Again, this method was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources." Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment in the amount of the provider's billed charges would be a fair and reasonable rate of reimbursement for the services in dispute. Additional reimbursement in the amount sought by the requestor cannot be recommended.
11. The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307(c)(2)(A), §133.307(c)(2)(C), §133.307(c)(2)(F)(iii), §133.307(c)(2)(F)(iv) and §133.307(c)(2)(G). The Division further concludes that the requestor failed to meet its burden of proof to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

#### **PART VI: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code § 413.011(a-d), § 413.031 and § 413.0311  
28 Texas Administrative Code §133.250, §133.307, §134.1  
Texas Government Code, Chapter 2001, Subchapter G

#### **PART VII: DIVISION DECISION AND/OR ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the Requestor is not entitled to additional reimbursement for the services involved in this dispute.

#### **DECISION:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
Date

#### **VIII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**